IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 27243 of 2004(R)

PETITIONER:

K.S.R.T.C. REP. BY ITS MANAGING DIRECTOR
TRANSPORT BHAVAN, EAST FORT, TRIVANDRUM.

BY ADV. SRI.T.RAVIKUMAR, SC, KSRTC
SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

RESPONDENTS:

R. SUNDARAM, DRIVER (RTD.) 1/752-A,
SUNDERLOK, 2ND STREET, KANCHI KAMAKSHI NAGAR,
V.M. CHATHIRAM, THIRUNELVELI,
TAMILNADU-627 011.

BY ADV. SRI.N.UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, ALONG WITH WPC NO. 10069 OF 2004 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

W.P.(C) NO.27243/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.D.DIS. 00305/98/APL 1 DT. 12.2.98.

EXT.P2:- COPY OF THE REPORT NO.CTO, 16/98/EKM DT.21.9.98.

EXT.P3:- COPY OF THE ORDER NO.D.DIS (APL 1) 014333/99 DT. 27.11.2000.

EXT.P4:- COPY OF THE ORDER DT. 9.8.02 IN RP. NO.5 OF 01.

EXT.R1:- COPY OF THE REVISION PETITION NO.5/01 DT. 2.2.01 ALONGWITH EXT.P1 TO 14.

/TRUE COPY/

P.A. TO JUDGE

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C).Nos.27243 of 2004-R & 10069 of 2004-W

Dated this the 22nd day of August, 2007.

J U D G M E N T

W.P.(C).No.27243 of 2004:

The petitioner is the Kerala State Road Transport Corporation. It challenges Ext.P4 order of the Appellate Tribunal in favour of the respondent, who is a retired driver. For the disposal of this case, it is unnecessary to go into the previous history of the disciplinary proceedings. Suffice to say the disciplinary authority imposed a punishment of barring of one increment with cumulative effect on the petitioner. On appeal, the appellate authority reduced the same to barring of one increment without cumulative effect. The respondent worker filed revision petition before the Appellate Tribunal. The Tribunal set aside the punishment and ordered to treat the period of suspension as duty for all purposes. When the said order was not implemented, the worker filed W.P.(C).No.10069 of 2004 on 22-3-2004 praying for a direction to implement it. Apparently, on receipt of notice in the writ petition, the K.S.R.T.C has filed this writ petition, challenging Ext.P4 on 16-9-2004.

(2). There is a delay of more than 2 years in challenging Ext.P4. There is no explanation in the writ petition for the delay.

(3). The respondent has filed a counter affidavit in which it was specifically contended that the writ petition is not maintainable as the same is highly belated. The said counter affidavit was filed on 16-5-2005. I find that even thereafter the K.S.R.T.C did not make any attempt to explain the delay in filing the writ petition. So, the petitioner is guilty of delay and laches. Accordingly, the writ petition fails and it is dismissed.

W.P.(C).No.10069 of 2004:

This writ petition is filed praying for a direction to the K.S.R.T.C to implement Ext.P1 order in R.P.No.5 of 2001 dated 9-8-2002 passed by the Appellate Tribunal. Since W.P.(C).No.27243 of 2004 filed by the K.S.R.T.C, challenging the said order is dismissed by me today, the respondent herein is bound to implement the said order of the Appellate Tribunal. So, this writ petition praying for a direction to the respondent to implement Ext.P1 order is liable to be allowed. It is ordered accordingly. All the benefits due to the petitioner arising out of the said order shall be released to him within two months from the date of receipt of a copy of this judgment.

K.BALAKRISHNAN NAIR, JUDGE.

MS